

EL VALLE DE LOS RANCHOS WATER & SANITATION DISTRICT

RESOLUTION 2020-09-01

EFFECTIVE OCTOBER 1, 2020

RELATING TO SEWER CONNECTION, USAGE FEES, PAYMENT PLANS FOR SEWER CONNECTIONS, ADMINISTRATIVE FEES, LIEN PLACEMENT, FORECLOSURES AND OTHER ADMINISTRATION OF THE DISTRICT.

Whereas, the Board of Directors of El Valle de Los Ranchos Water & Sanitation District (hereinafter "District") meeting in special session on September 16, 2020 as required by law, considered and adopted the following resolution:

1. The District was established according to New Mexico law and has the authority to construct, operate and maintain a sewer line system for liquid waste disposal;
2. The District has the authority to require residential and commercial establishment to connect to the District's sewer pursuant to the following New Mexico Statute:

...For health and sanitary purposes, the board shall have the power to compel the owners of inhabited property within a sanitation district to connect their property with a sewer system of the district, and , upon a failure so to connect within sixty days after written notice by the Board, the Board may cause the connection to be made and a lien to be filed against the property for the expense incurred in making the connection; provided, however, that no owner shall be compelled to connect his property with such system unless a service line is brought by the district to a point within four hundred feet of his dwelling place. Section 73-21-16(L), NMSA (1978).

3. The Board of Directors of the District interprets the term "inhabited property" to mean "any separate unit to which the property owner is required to have sewer service". Any building located on a property owner's property that contains plumbing fixtures must be connected to the District's sewer. It is the property owner's responsibility to make payment for each connection at the rates established by the Board.

4. The District has constructed certain sewer lines and in order to properly complete the disposal of the liquid water, the District has entered into a Interconnection Agreement with the Town of Taos, which operates a waste water treatment facility in Taos County;
5. The Board has adopted a number of Resolutions for the efficient operation of the District and the collection of fees related to the sewer system. The resolutions adopted have been done so in compliance with New Mexico statutory authority permitting the District to compel property owners who have an inhabited property within four hundred feet of a District line to connect their inhabited property to the District line. (Section 73-21-16(L) NMSA (1978)).
6. The fees previously adopted and the time for enforcement of these fees are also reasonable and in compliance with New Mexico law.
7. The Board has now found it necessary to adopt a new Resolution consolidating all prior resolutions relating to connections, payments and enforcement and providing a time-frame for the enforcement of payment for connection fees:

NOW THEREFORE, BE IT RESOLVED as follows:

This Resolution and Policy shall become effective on October 1, 2020.

A. Definitions: The following terms shall have the following definitions:

1. Commercial use: Any structure or facility that is used to engage in a business, commerce, manufacturing, marketing, and/or sale of products and includes but not limited to: a. stores/retail business; b. restaurants/bars; c. motels, bed and breakfast units; d. commercial buildings with multiple uses or units and may include living quarters which may be attached or detached separate living quarters. Three or more residential units are considered a commercial use.

2. Large commercial: Any structure or facility used for a commercial purpose as defined herein where at the time of the connection to the District system, the District determines that the connection shall be a 8” or greater pipe connection based on estimated use.

3. Small commercial: Any structure or facility used for a commercial purpose as defined herein where at the time of the connection to the District system, the District determines that the connection shall be a 4” or 6” pipe connection based on estimated use.

4. Single family: See Residential Unit

5. Residential Unit: One or more contiguous, habitable rooms designed, arranged, occupied, or intended to be occupied by one or more individuals living together as a household or one family. A Residential Unit has facilities for living, cooking, sleeping, or bathing and is generally configured to provide an independent access. If areas within a building or house are designed or arranged with the capability for occupancy that is independent of the rest of the household, that area is classified as a separate Residential Unit. Other features that may indicate a Residential Unit are private telephone line, separate cable or satellite TV, lease contract, and unrelated third party occupancy. Examples of a Residential Unit are: single family homes, condominiums, townhouses, duplexes, multiplexes, apartments, efficiencies, studio units, lock-offs, mobile homes, etc.

6. Unoccupied: Not inhabited; vacant; not being used for a commercial purpose.

B. Connection Fees and Costs:

Cost to connect to the District’s sewer line, plus appropriate New Mexico Gross Receipts Tax:

Residential Units:

1. Each residential unit connection, four inch (4") line \$700.00

Commercial Units

2. For each four inch (4") line for a small commercial use \$1,200.00
3. For each six inch (6") line for commercial use \$7,500.00
4. For each eight inch (8") line for large commercial use \$10,000.00

(Based on a maximum of nine (9) commercial units. Each additional commercial unit shall be charged at the rate of \$1,200 per unit.)

5. Multi-family dwelling such as apartment buildings shall be required to pay one connection fee for each unit. The connection fee shall be a commercial connection fee if the building is owned by one individual or entity and rented by that individual or entity to renters. For condominium complexes in which each unit is owned by the resident, the connection fee shall be for a residential unit. Multi-unit commercial businesses with more than one business contained therein shall pay a connection fee for each occupied business and the monthly fees shall be imposed on each business connected to the sewer.

C. Monthly User Fees and Costs – Residential.

The monthly user fee for residential users, based on a flat monthly schedule per the interconnection Agreement with the Town of Taos, is (per each unit connected) \$27.25. (New Mexico Gross Receipts Tax at the appropriate rate will be added.)

D. Unoccupied Units:

A Residential or Commercial Unit which is unoccupied, as established by another utility bill or by inspection by the District, will be charged a minimal charge of

\$10.00 per month, plus required gross receipts tax. It is the owner's responsibility to inform the District of any changes to the occupancy status of the building. Should the building be re-occupied without the owner informing the District, the owner will be subject to a back-charge equivalent to 12 months' sewer service.

E. Monthly User Fees and Costs – Commercial.

The monthly user fee for commercial users will be \$31.88 per month for the first 1,000 gallons of discharge and \$3.56 per thousand gallons for all usage over 1,000 gallons. Each commercial user shall install an electronic water meter inspected and approved by the District to measure usage. Failure of a commercial user to install a meter as required shall cause the District to install a meter and impose a charge to the property owner for that meter, the installation and any other associated fees. Such charge shall become a lien on the real property, which if unpaid may be enforced by the District as set forth in paragraphs G and H, hereunder.

F. Connecting to the District System.

1. Property owners of inhabited properties within 400 feet of a District service line, shall, within sixty (60) calendar days after written notice from the District, connect their property to the sewer system commencing from the date that the notice is hand-delivered to the property owner, or any person, authorized by law to accept service of process; or from the date of mailing by certified mail.

Property owners who fail to connect their property within sixty (60) calendar days shall be subject to the provisions of section 73-21-16(L) NMSA (1978) which allows the placement of lien against the subject property and eventual foreclosure thereof. For good cause shown, a reasonable extension of time may be provided

by the District. (Good cause may include frozen ground or other practical difficulties that prevent connection.)

2. Illegal connection. A property owner who has connected to the District's system without payment and without the knowledge of the District may be required to pay a connection fee equal to three times the applicable connection fee. In addition, the illegally connected owner may be charged past usage fee plus interest at 1.5% per month from the date of service was available with the area of the illegally connected owner's property. Failure to make payment or other arrangements with the District within thirty (30) days of notification shall result in the District either:
 - a. Computing the costs of a legal connection and imposing the appropriate charge thereon and filing a lien to secure payment thereon; or
 - b. Filing an action seeking a Court order to require the owner to pay the amount owed; or
 - c. Turning the matter over to the Eighth Judicial District Attorney for prosecution; or
 - d. Disconnection of the illegal connection by the District at the owner's expense, including the actual cost to the District of the disconnection, imposition of a charge of \$150 in attorney fees, \$100 in administrative fees and other actual fees incurred by the District; or
 - e. All of the above.

3. It shall be the responsibility of each property owner to ensure that a licensed plumber performing a connection to the District's lines contacts the District prior to beginning work. The District shall confirm that the property owner has applied for the connection and shall give verbal or written authorization for the plumber to proceed. After the connection has been made, the plumber shall notify the District so that a formal inspection of the connection can be completed.
4. If the property owner fails or refuses to connect as required, the District may perform the connection at its expense and record a lien against the property as permitted by State Law, or may take any other enforcement action as identified herein in Section F-2 and J-1 or as otherwise allowed by law. As an alternative, the District may file a case in the Eighth Judicial District Court requesting that the Court order the owner to connect to the sewer.

G. Payment Plan.

The District has implemented a payment plan to assist individuals in payment of the connection fees. The payment plan shall be as follows:

1. Within sixty (60) days of notification of the requirement to connect to the District's system, the property owner shall pay a down payment of twenty-five percent (25%) of the connection fee.
2. The property owner will thereafter pay equal monthly payments for a period of twelve (12) months. The balance due will bear interest at the rate of six and one half percent (6.5%) per annum. The balance may be paid in full at any time within the twelve (12) months period with no prepayment penalty.

3. In order to be eligible for a payment plan, the property owner will be required to sign a promissory note agreeing to make the required monthly payments.
4. Failure to make timely payments under the terms of the agreement will subject the owner to immediate revocation of the payment agreement and the amount due, plus any interest thereon, shall be immediately due and payable.
5. If the connection fee is not paid in full in one year, pursuant to the terms of the payment plan, the District may require that the property be disconnected from the system. In order to reconnect to the system, the property owner must pay the complete balance due under the payment plan plus any other fees and costs associated with disconnecting from the system as identified herein.

H. Payments on Account.

1. Monthly connection and usage billings will be generated on the 1st working day of each calendar month. Payment for said bills shall be due by the fifteenth (15th) day of the month (e.g., bills generated on the 1st working day of the month of November would be due on November 15th.)
2. A grace period of ten (10) calendar days shall be permitted. Thus, a bill due by November 15 will not be considered late if received by November 25th.
3. Any payment not received by the due date (including the grace period) shall be charged a late fee of \$2.50 for each month the payment is late.
4. Any account past due for three months or longer shall be subject to lien placement and foreclosure as set forth herein.

I. Delinquencies.

Failure to timely pay the connection fees, or installments thereof, or to make monthly sewer service payments shall subject the owner to a collection action for amounts due. Such enforcement action may include recordation of liens for the amount due upon the property and subsequent foreclosure of the property. The District may also seek to enforce the indebtedness by direct action of the court of competent jurisdiction. In the event of repeated failure of the property owner to respond to collection efforts for past due sewer payment or connect fees, the District may disconnect the service of the owner. This action will only be taken in the event that the owner owes the District an amount equivalent to three (3) months of service and after written notice has been delivered to the property at least two (2) weeks prior to the disconnect. The owner will be responsible for the actual costs incurred by the District in disconnection and re-connection. In addition, a \$100.00 administrative fee and \$150 in attorney fees shall be assessed to the owner. The property will not be reconnected to the sewer unless and until the owner makes payment in full of all amounts due.

J. Timeline for Lien Placement and Initiation of Foreclosure Action.

It is the policy of the Board of Directors to provide an efficient, fair and consistent policy of enforcement for delinquent accounts. Therefore, the following actions shall be taken:

1. Upon the expiration of the sixty (60) day requirement to connect as set forth above (unless an extension of time is granted for good cause shown); the District shall do one of the following:


- a. Cause the inhabited property to be connected and immediately record a lien against the property in the amount equal to the connection fee plus administrative fees and applicable attorney fees, unless the property owner has applied for a payment plan as allowed herein; or
 - b. File an action in District Court for Declaratory and Injunctive Relief against the Property owner; or
 - c. Take any other action as identified herein to ensure the property is connected.
2. A property owner who has agreed to a payment plan and who is more than thirty (30) days late in making of any payment shall be subject to lien placement for the entire amount owed plus administrative costs and attorney fees.
 3. A property owner who has failed to make monthly payments on their sewer charges for three (3) consecutive months may have a lien recorded against their real property for the amount owed, costs, administrative fees and attorney fees, in addition to the District taking any other action as identified herein. If the property owner fails to make payments once a lien is recorded, the District may initiate either an action to foreclosure the lien or a direct action against the property owner for the full amount owed.

K. Administrative Fees and Assessment.

If a user's account becomes delinquent and the District is required to place a lien on the property as set forth above, the District shall impose a \$100.00 administrative fee per account in addition to the imposition of any attorney fees or costs that are incurred in the collection of the amount due.

This Resolution supersedes and repeals Resolutions 2002-07-01, 204-07-06, 2004-10-04, 2004-12-03, 2005-03-02, 2005-12-01, 2006-05-01, 2006-10-01, 2007-04-02, 2007-09-02, 2010-03-01 and 2010-05-01, 2014-04-01, 2017-03-02, 2020-07-03.

PASSED AND ADOPTED this 16th day of September.



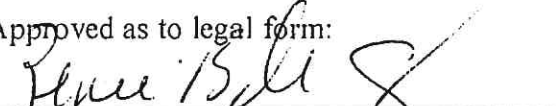
Gabriel Romero, Chairman

ATTESTED:



DELFINO TORRES, Secretary

Approved as to legal form:



Renee Barela-Gutierrez, Board Attorney

This Resolution supersedes and repeals Resolutions 2002-07-01, 204-07-06, 2004-10-04, 2004-12-03, 2005-03-02, 2005-12-01, 2006-05-01, 2006-10-01, 2007-04-02, 2007-09-02, 2010-03-01 and 2010-05-01, 2014-04-01, 2017-03-02, 2020-07-03.

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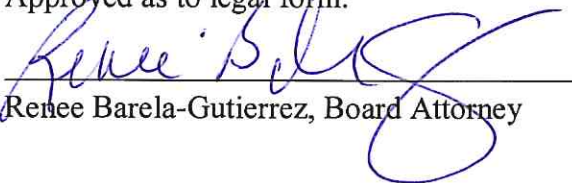
Gabriel Romero, Chairman

ATTESTED:



DELFINO TORRES, Secretary

Approved as to legal form:



Renee Barela-Gutierrez, Board Attorney